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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 330 and 385

[Docket No. RM99-5-000; Order No. 639-B]

Regulations Under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf

Issued March 8, 2004.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is removing certain regulations promulgated under the Outer Continental Shelf Lands Act following a judicial determination that the Commission lacked authority to issue the regulations.

EFFECTIVE DATE: The rule is effective March 17, 2004.

FOR FURTHER INFORMATION CONTACT: Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8947.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suedeem G. Kelly.

Introduction

1. The Federal Energy Regulatory Commission (Commission) is removing certain regulations promulgated under the Outer Continental Shelf Lands Act (OCSLA)¹ following a judicial determination that the Commission lacked authority to issue the regulations.

¹ 43 U.S.C. 1301-1356.

Background and Discussion

2. On April 10, 2000, the Commission issued a rule requiring all entities that move natural gas on or across the Outer Continental Shelf to report certain information regarding their affiliations, rates, and conditions of service.² On January 11, 2002, the United States District Court for the District of Columbia determined that the Commission lacked authority under the OCSLA to promulgate such reporting requirements,³ a determination subsequently affirmed.⁴ In view of the courts' finding, the Commission is removing the reporting requirements set forth in part 330 of Subchapter O of its regulations.

Information Collection Statement

3. There is no need for Office of Management and Budget (OMB) review⁵ under Section 3507(d) of the Paperwork Reduction Act of 1995,⁶ since this final rule eliminates information collection and recordkeeping requirements. The removal of the OCSLA reporting requirements reduces the Commission's FERC-545 data collection burden by 1,760 hours and eliminates the \$88,000 annual cost.

Environmental Analysis

4. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.⁷ However, the Commission has categorically excluded

² Regulations Under the OCSLA Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf, Order No. 639, 65 FR 20354 (Apr. 17, 2000), FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶31,097 (2000); *Order on Reh'g*, Order No. 639-A, 65 FR 47294 (Aug. 2, 2000), FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶31,103 (2000), *Order Denying Clarification*, 93 FERC ¶61,274 (2000); *Order Denying Clarification*, 93 FERC ¶61,274 (2000); *Order on Request for Confidential Treatment*, 96 FERC ¶61,296 (2001); *Order Clarifying Prior Order*, 97 FERC ¶61,040 (2001).

³ *Chevron U.S.A., Inc. v. FERC*, 193 F. Supp. 2d 54 (D.D.C. 2002).

⁴ *Williams Companies v. FERC*, 345 F.3d 910 (DC Cir. 2003).

⁵ 5 CFR 1320.11.

⁶ 44 U.S.C. 3507(d).

⁷ Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶30,783 (1987).

certain actions from this requirement as not having a significant effect on the human environment.⁸ The removal of regulations here qualifies for such an exclusion.⁹ Therefore, no environmental analysis is necessary, and none has been done.

Regulatory Flexibility Act Certification

5. The Regulatory Flexibility Act of 1980 (RFA)¹⁰ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect.¹¹ The Commission found that promulgation of the regulations at issue would not have a significant economic impact on small entities and certifies that the removal of these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

Document Availability

6. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

7. From FERC's Web site on the Internet, this information is available in the eLibrary (formerly FERRIS). The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

8. User assistance is available for eLibrary and other aspects of FERC's Web site during normal business hours. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll

⁸ 18 CFR 380.4(a)(2)(ii).

⁹ 18 CFR 380.4.

¹⁰ 5 U.S.C. 601-612.

¹¹ 5 U.S.C. 605(b).

free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Effective Date

9. The removal of the OCSLA reporting regulations is effective immediately, pursuant to 5 U.S.C. 533(b). The Commission is issuing this as a final rule without a period for public comment, because under 5 U.S.C. 533(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice or where the agency finds notice and comment unnecessary. The provisions of 5 U.S.C. 801 regarding Congressional review of final rules do not apply to this final rule, because this rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.¹²

List of Subjects

18 CFR Part 330

Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric utilities, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Linda Mitry,

Acting Secretary.

■ In consideration of the foregoing, under the authority of U.S.C. 825h, the Commission amends 18 CFR Chapter I as follows:

SUBCHAPTER O—REGULATIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT (OCSLA)—[REMOVED]

■ 1. Subchapter O, consisting of part 330, is removed and reserved.

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 2. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 791a-8225r, 2601-2645; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

■ 3. In § 385.2011, paragraph (b)(6) is removed.

[FR Doc. 04-5761 Filed 3-16-04; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37-132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding an exemption rule for the system of records F071 JTF A, entitled "Computer Network Crime Case System". The exemptions [(j)(2) and (k)(2)] increase the value of the system of records for law enforcement purposes.

The proposed rule was published on December 9, 2003, at 68 FR 68578. No comments were received; therefore, the Department of the Air Force is adopting the rule as published below.

EFFECTIVE DATE: February 10, 2004.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been certified that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been certified that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been certified that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 806b

Privacy.

■ Accordingly, 32 CFR part 806b is to be amended as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Appendix D to part 806b is amended by adding paragraph (e)(8) to read as follows:

Appendix D to Part 806b—General and Specific Exemptions

* * * * *

(e) * * *

(8) System identifier and name: F071 JTF A, Computer Network Crime Case System.

(i) Exemption: (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

¹² See 5 U.S.C. 804(3)(B) (2002).